

November 29, 2023

Via Email and ECF

Honorable Michael E. Wiles
United States Bankruptcy Judge, Southern District of New York
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Re: In re Americanas S.A., et al. – Case No. 23-10092 (MEW)

Your Honor:

We write to you collectively in each of our capacities as counsel to Antonio Reinaldo Rabelo Filho, the foreign representative (the “Foreign Representative”) of the debtors in these chapter 15 cases (the “Chapter 15 Debtors”),¹ and counsel to third-parties LTS Trading Company LLC, Cedar Trade LLC, entities beneficially owned by certain shareholders of the Chapter 15 Debtors (collectively the “Reference Shareholders”), with regard to the *Notice of Hearing of Motion of Sablon Partners Ltd. for an Order Pursuant to Bankruptcy Rules 2004 and 9016 Authorizing the Examination of the Debtors Americanas and B2W Digital and Third Parties* [ECF No. 43] (the “Notice”) filed by counsel to Sablon Partners Ltd. (“Sablon”) on November 13, 2023.

Pursuant to the Notice, a hearing was scheduled on December 12, 2023 (the “Hearing”) to hear Sablon’s motion [ECF No. 42] (the “Motion”) seeking authority to take discovery from the Chapter 15 Debtors and the Reference Shareholders. The Hearing was scheduled by Sablon without any prior notice to the Foreign Representative or the Reference Shareholders.

After receiving the Notice, we contacted our respective clients and relevant witnesses regarding their availability. Due to external circumstances, the Foreign Representative and the other witnesses are unavailable to attend the Hearing on the currently scheduled date of December 12.

Specifically, the Foreign Representative is unavailable the week of December 12 due to certain pre-scheduled personal commitments in Brazil. Furthermore, the Foreign Representative intends to submit expert testimony in support of its objection to the Motion, and the Foreign Representative’s expert witness is also unavailable that same week as he is attending a conference for UNCITRAL in Vienna, Austria during that period. In addition, the Brazilian Court entered an order scheduling the Chapter 15 Debtors’ general creditors’ meeting (the “Creditors’ Meeting”) for December 19. At the Creditors’ Meeting, thousands of creditors will attend to consider and cast their votes on the Chapter 15 Debtors’ plan of reorganization in the *recuperação judicial* (the “Brazilian RJ Proceeding”). Consequently, the Creditors’ Meeting will demand the full attention, preparation, and participation of the Foreign Representative, the Chapter 15 Debtors and their advisors both on and during the week preceding December 19. *Cf. JP Morgan Chase Bank v.*

¹ The debtors in these chapter 15 cases, along with the last four digits of each debtor’s tax identification number in their applicable jurisdiction of incorporation, are as follows: Americanas S.A. (06-60 – Brazil); JSM Global S.à.r.l. (5670 – Grand Duchy of Luxembourg); and B2W Digital Lux S.à.r.l. (8659 – Grand Duchy of Luxembourg).

Altos Hornos de Mexico, 412 F.3d 418, 424 (2d Cir. 2005) (“Since the equitable and orderly distribution of a debtor's property requires assembling all claims against the limited assets in a single proceeding, American courts regularly defer to such actions.”) (cleaned up).

With respect to the Reference Shareholders, their lead counsel is unavailable the week of December 12 due to an ongoing trial in another matter.

In an effort to address this scheduling conflict, we promptly contacted counsel to Sablon to discuss a short adjournment of the Hearing to December 21 or 22 (or, depending on the Court's availability, to a date in early January following the holidays), a delay of little more than a week. Unfortunately, after several discussions amongst counsel, Sablon indicated yesterday evening that it will not consent to any adjournment of the Hearing to accommodate the Foreign Representative and the Reference Shareholders.

Sablon has not provided any justification for why the hearing must go forward on December 12. In the course of meet and confers, counsel to Sablon suggested that Sablon wants its application to be heard in advance of the Creditors' Meeting. But this is pretext: stakeholders in Brazil have known since at least July 2023 that the Creditor's Meeting would be held before the end of 2023.² If it were truly important for Sablon to have discovery in advance of the Creditor's Meeting, Sablon has provided no explanation as to why it waited nearly ten months to seek Rule 2004 discovery after the Foreign Representative filed the Chapter 15 Petition, and over five months since even public reporting revealed the meeting would take place by the end of the year. Thus, any prejudice from a short adjournment is due solely to Sablon's own delay.

Further, even if Sablon receives a ruling on December 12 in advance of the Creditor's Meeting, Sablon will not have any discovery materials in advance of the Creditor's Meeting that would aid Sablon in its decision on whether or not to vote to approve the plan.

Additionally, Sablon is also refusing to make its two proposed fact witnesses (the two declarants Sablon's Motion relies upon) available for deposition ahead of the Hearing on its Motion, although it is clear that Sablon intends to seek admission of the declarants' testimony. If the Hearing is continued to December 21 or December 22, the Chapter 15 Debtors and the Reference Shareholders could proceed with those depositions on December 12 (since Sablon's witnesses are presumably available on the hearing date Sablon selected), in advance of a December 14 or December 15 objection deadline.

Pursuant to the Court's local rules, we respectfully request a conference with Your Honor to discuss the hearing schedule and also the scheduling of depositions for Sablon's proposed fact witnesses. We are available at the Court's earliest convenience.

² See, e.g., Rodrigo Carro, *Assembleia De Credores Da Americanas Deve Ocorrer Em Agosto, Diz Fonte* [Americanas' Creditor's Meeting Should Take Place In August, Says Source], Valor, July 16, 2023, available at <https://valor.globo.com/empresas/noticia/2023/07/16/assembleia-de-credores-da-americanas-deve-ocorrer-em-agosto-diz-fonte.ghtml>; Andre Romani, *Americanas Espera Assembleia De Credores Sobre Plano De Recuperacao Judicial Ainda Em 2023* [Americanas Expects Creditor's Meeting Still In 2023], Terra, October 27, 2023, available at <https://www.terra.com.br/economia/americanas-espera-assembleia-de-credores-sobre-plano-de-recuperacao-judicial-ainda-em-2023,a636476dfcd57a09fa813dabea6a6f7e4ie8pu7x.html>.

We thank Your Honor for your consideration of this request.

Respectfully,

/s/ Gregory M. Starner

Gregory M. Starner

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